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ically the characteristics of the merchant-capitalist period, but they are clearly marked off by the new phenomenon of philosophical, humanitarian and political protest. This protest, diverted into the anti-slavery contest after 1852, gave way to a 'pure and simple' trade union movement in 1853."

4. It was in "the two decades, 1860 to 1880, Volumes IX and X, with the market nationalized by the railway and protected by the tariff, that invention in the technical processes of industry came to have profound effects. This was a truly revolutionary period in which the merchant-capitalist system was giving away to the factory system."

The current events in the history of labor—those that have occurred since the full establishment of the factory system about 1880—are not covered by the documentary history which ends with 1880.

Volumes I to VI and the supplement to Volume IV have appeared at the time of the writing of this review; Volumes VII to X are being printed and will shortly be issued. The documents have been ably edited and are being published in attractive and enduring form. Type, paper and press work are excellent. The Bureau of American Industrial Research is, indeed, to be commended for giving historians and economists the assistance which they will derive from this most helpful *Documentary History*.

EMORY R. JOHNSON.

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Dyer, Henry. *Japan in World Politics.* Pp. xiii, 425. Price, 12/6. Glasgow: Blackie & Son, 1909.

Like his previous work, "Dai Nippon," this study by Professor Dyer gives a mass of information not easily available to any but those who have spent many years in the far east. The historical part is chiefly a summary of material included in the previous work. So long as the discussion rests on affairs in Japan, the author's familiarity with his subject prevents slips. When a wider field is entered mistakes become frequent. The Spaniards, for example, are said to have sent eight ships yearly between the Philippines and Mexico (p. 16); they sent but two. They are charged with massacring all Chinese in the islands on two different occasions (p. 33). History records no such event. On page 265 we learn that the "Monroe Doctrine" "forbade any European or Asiatic Power effecting a lodgment on South American soil." Examples could be multiplied. There are also numerous digressions which, in spite of the breadth of the title of the book are hard to justify.

Japan's mission is important. In the author's opinion it will prove the universality of civilization, harmonize eastern and western thought, regenerate China and Korea and promote the peace and commerce of the East. It is needless to say that the author is frankly pro-Japanese. He sees no faults to mention except a degree of personal untrustworthiness, though this cannot be charged against the government. The nation is peace-loving, and no fear need be held that it will provoke war with any of its neighbors. The treaties entered into since the Russo-Japanese War represent not paper

agreements but national policy. If a war with the United States should break out, however, the Philippines would be an easy prey to Japan. A review of Japanese foreign relations in detail and a discussion of the assimilability of the Japanese conclude the book.

CHESTER LLOYD JONES.

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Gray, J. C. *The Nature and Sources of the Law.* Pp. xii, 332. Price, \$1.50. New York: Columbia University Press, 1909.

Professor Gray classifies himself with those "who are considering not what fancies may be dreamed in order to tabulate the facts in accordance with some preconceived system," but who seek to discover "what the facts really were and are." And here his professed task is to call attention "to the analysis and relations of some fundamental legal ideas rather than to tell their history or prophesy their future development."

The Austinian theory of law as the command of a sovereign is rejected. The author knows no sovereign. The state is a useful personified abstraction invented to give title to the acts of the ruling persons who are the actual sources of authority. It is, however, needless to invent another abstraction to which to attribute a fictitious command. Law first arises when the judicial authority of a political community lays down a rule in deciding controversies. On any given point there is no law until the court declares it. Custom is not law, because custom is practice, and law is opinion. Statutes are not law, for they are not self-interpreting. "Their meaning is declared by the courts, and it is with that meaning as declared by the courts and with no other meaning that they are imposed upon the community as law." A judicial decision is at the same time a law and an important though not controlling source of other laws. Though in fact a court is free to make a law for each particular case as it sees fit, custom, legislation, precedent and the opinion of experts are given legal recognition by the courts as sources of future decision. Each rule declared by the court is a law. *The* law is the body of rules so declared. Yet how this congeries of particulars become fused into a conceptional unity is not made manifest.

Professor Gray has no relish for fictions or abstractions. He seems drawn into much of his discussion reluctantly, impelled solely by a desire to clear away the dust raised by his predecessors. And the merits of his work as a contribution to the philosophy of law will be found mainly in his destructive criticism of the speculations of others. His own comment is suggestive. "Especially valuable is the negative side of analytical study. On the constructive side it may be unfruitful, but there is no better method for the puncture of wind-bags." Such a puncturing he gives us in language always refreshing and with a logic that never trips.

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